

Notice of Allowability

Application No.

09/887,762

Examiner

Robert D. Rines

Applicant(s)

THOMPSON, DAVID L.

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/22/07 and Ex. Amend. of 9/5/2007.
2. ☒ The allowed claim(s) is/are 1, 5, 7, 9, 15, 16 and 21-23.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

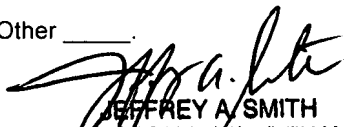
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 9/5/07.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with Michael C. Soldner, Reg. No. 41,455, on 5 September 2007.

3. The application has been amended as follows:

Claim 17 has been cancelled.

4. Please amend claim 1 as follows (full text of the amended claims appears below):

Art Unit: 3626

Claim 1. A portable extender adapted for use by a visiting nurse, the extender comprising:

a video camera;

means for establishing a wireless data communication with a medical device implanted in a patient being visiting by the nurse;

means for downloading diagnostic data from the medical device;

means for establishing a wireless data communication with a remote location;

means for downloading secure data corresponding to a treatment and prescription plan for the patient from the remote location;

means for planning and organizing a daily schedule of patient visits for the visiting nurse;

and

a touch screen coupled to and providing means for a user to activate the video camera, the means for establishing the wireless data communication with the medical device, the means for establishing a wireless data communication with the remote location, the means for downloading the diagnostic data, the means for downloading the secure data, and the means for planning and organizing a daily schedule of patient visits for the visiting nurse.

REASONS FOR ALLOWANCE

5. The following is an examiner's statement of reasons for allowance:

Claim 1

The prior art of record neither anticipates nor provides fair and reasonable rationale to define a portable extender (apparatus) adapted for use by a visiting nurse comprising: a video camera, means for establishing wireless communication with a medical device implanted in a patient, means for downloading diagnostic data from the medical device, means for establishing wireless data communication with a remote location, means for downloading secure data corresponding to a treatment and prescription plan for the patient from the remote location, means for planning and organizing a daily schedule of patient visits for the visiting nurse, and a touch screen providing means for a user to activate the video camera, the means for establishing the wireless data communication with the medical device, the means for establishing wireless communication with the remote location, the means for downloading diagnostic data, the means for downloading the secure data, and the means for planning and organizing a daily schedule of patient visits.

Applicant's remarks filed in the amendment filed 22 June 2007 are compelling and commensurate with both the original disclosure and the claims as amended.

The most closely applicable prior art of record is referred to in the Office Action mailed 22 March 2007 as Lang et al. (United States Patent # 6,553,262). Lang et al. provides an arrangement for patient monitoring, in particular of individuals with implanted electronic medical devices, which enables an adequately accurate determination of the whereabouts of the patient in the event of an emergency. The arrangement described by Lang et al. includes an external patient device comprised of a conventionally designed mobile phone and a transmission and receiving unit implementing a bidirectional telemetry path to the implanted cardiac pacemaker. The telephone component of the device is employed to relay data extracted from the implanted device to a patient monitoring station. The Lang et al. device further employs navigation algorithms to calculate the position of the patient in the event of a cardiac emergency. Lastly, Lang notes that it is possible to "undertake a programming intervention via the mobile phone link as well as the bidirectional telemetry link".

While Lang et al. is similar to the instant application in many respects, there are clear patentable distinctions. Initially, Lang et al. does not teach "a video camera", as a required component of the patient external device. Secondly, Lang et al. fail to disclose "means for planning and organizing a daily schedule of patient visits for the visiting nurse." A third distinction between Lang et al. and the instant invention is that the Lang et al. device does not employ a touch screen.

While the Lang et al. arrangement enables reporting of data extracted from an implantable device for the purpose of identifying and responding to a cardiac emergency (e.g., by sending an ambulance or conducting a programming intervention), the instant invention is directed to

Art Unit: 3626

assisting a visiting nurse in conducting in-home patient visits to enable monitoring of IMD (implantable medical devices) patients on a regular basis. In this context, the video camera of the instant invention enables video identification of the nurse for security purposes as well as video conferencing features for conducting in-home visits. Further, in the context of the instant invention, the means for planning and organizing a daily schedule enables a workflow/efficiency element that directs the nurse to the location of the next patient visit in a series of patient visits. These features and their respective functions are neither anticipated nor made evident under any fair and reasonable rationale by the teachings Lang et al.

Examiner would like to add an additional comment related to the inclusion of the teachings of Causey, III et al. (United States Patent # 4,809,697). While Causey III et al. teach a touch screen enabled device that provides for the analyzing and programming of implantable medical devices via a bi-directional telemetry link, Causey, III et al. fail to teach wireless communications to a remote location, a video camera, and the means for planning and organizing a daily schedule for the user/nurse. These features and their respective functions are neither anticipated nor made evident under any fair and reasonable rationale by the teachings Causey III, et al.

One final issue that the Examiner would like to address is whether evidence of anticipated features to devices such as that taught by Causey, III et al. prior to the effective date of the instant application, would potentially read on Applicant's invention. Specifically, Examiner was able to find evidence that, prior to the effective filing date of the instant application, expected advances in implantable device programming devices included wireless communication of data

Art Unit: 3626

and recommendations for pacing prescriptions based on artificial intelligence and rule based logic. Please see "Pacemaker Programmers: An Updated Synopsis" listed in the Notice of References Cited. While the above noted features when incorporated into a device such as that taught by Causey III, et al. would present additional elements of the instant invention, Examiner could find no additional evidence that indicated anticipation or fair and reasonable rationale to define the home-visit enabling features of a video camera and scheduling and planning elements pre-dating the effective date of the instant invention.

Claim 22

Claim 22 is directed to a portable extender (apparatus) including all the elements recited in claim 1. Claim 22 contains additional functional language directed to the use of the video camera and further contains specific functional language directed to the nature and type of data transmitted to the remote location. This apparatus is allowable over the prior art of record for reasons consistent with those identified with respect to claim 1.

Claim 23

Claim 23 recites a method implemented in a portable extender (apparatus) executing steps employing the elements of claim 1 as the extender would be utilized during a patient visit. This method is allowable over the prior art of record for reasons consistent with those identified with respect to claim 1.

Claims 5, 7, 9, 15-16, and 21

Claims 5, 7, 9, 15-16, and 21 all depend from allowable claim 1 and further recite features directed to specific applications of the video camera, inclusion of a GPS system, secure data access, and additional inclusion of a cell phone. Claims 5, 7, 9, 15-16, and 21 are allowable for reasons consistent with those identified with respect to claim 1.

6. Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 3626

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Schoenfeld, Mark H., *Pacemaker Programmers: An Updated Synopsis*, Cardiac Electrophysiology Review; Jul 1999; pg. 20.

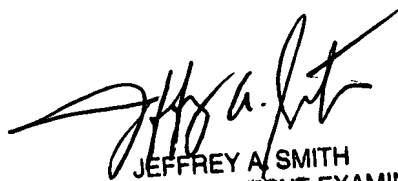
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert D. Rines whose telephone number is 571-272-5585. The examiner can normally be reached on 8:30am - 5:00pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3626

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RDR



JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600